

Date: February 23, 2012

To: Thomas J. Bonfield, City Manager
Through: Theodore L. Voorhees, Deputy City Manager
From: Marvin G. Williams, Director of Public Works
Edward R. Venable, Manager of Engineering and Stormwater
Robert N. Joyner Jr., Assistant Manager of Development Review
Subject: Update on Failed and Struggling Developments

Executive Summary

This Failed Development update addresses the status of three of locations, Lynn Hollow Bay Pointe and Dunwoody. The streets in the Lynn Hollow and Bay Pointe neighborhoods were previously accepted for maintenance. These sites will be removed from the Failed Development listing and their street repairs addressed under the repaving program. A plan for the resolution of the Dunwoody Failed Development will be presented at the next Work Session.

Recommendation

The Department of Public Works recommends that the City Council receive the report on failed and struggling developments.

Background

Over the past three years, the Department of Public Works has been managing failed and struggling developments, which includes bankrupt and restructured developments, to ensure that the public and private infrastructure is completed. The City Attorney's Office has been assisting the Department of Public Works and has been instrumental in negotiations with financial institutions, insurance companies, restructured developments, and purchased bankrupt developments with the goal of ensuring the completion of the public and private infrastructure through either completion of the infrastructure or payment of the available construction security. The Department of Public Works has contacted the Homeowner's Associations of these failed developments and has met with the citizens of these neighborhoods. These meetings were utilized to discuss the history of how the situation arose following the 2008-2009 recession, provide general information on the types of construction securities held in pledge from the developer for incomplete work, give an update on process status, and discuss the next steps to allow citizens to voice their opinions and concerns. Through the Engineering Inspections Group of the Department of Public Works, the critical elements needed to complete these subdivisions have been identified and a cost

estimate created by the Engineering and Stormwater Services Development Review Group. These estimates will ultimately be used to generate contracts to complete the work.

In the years prior to the 2008 economic turndown, Public Works used construction securities as a pledge to ensure all work was eventually completed. Up until that time developments may have progressed slowly, but all eventually completed the required street and stormwater infrastructure work. Streets with only the final layer of asphalt missing were often accepted for maintenance with a construction security in place to ensure eventual completion. The construction securities were often not representative of the actual construction cost, but a negotiated amount to be held and released once the work was completed.

Issues/Analysis

The Lynn Hollow development construction security collected (\$22,000) is less than the estimated cost for repair of \$137,000.00. The shortfall is \$115,000. As the streets have been accepted, the infrastructure should be completed under the existing repaving program. The infrastructure will be incorporated into a future contract. Funding is being requested through the FY13 CIP process.

The Bay Pointe development construction security collected (\$55,000) is less than the estimated cost for repair of \$131,000.00. The shortfall is \$76,000. As the streets have been accepted, the infrastructure should be completed under the existing repaving program. The infrastructure will be incorporated into a future contract. Funding is being requested through the FY13 CIP process.

The Dunwoody development construction security was not collected and the estimated cost for repair is \$21,000.00. As the streets have not been accepted, the Department of Public Works recommends that this failed development public infrastructure be completed with assessment to the residents of this subdivision. The plan for repair is being presented to the residents and will be brought to the next Work Session for Council consideration.

Financial Impact

Collected securities will be used to fund as much of the work as possible. The City will have financial impacts due to shortfalls and funding is being requested through the FY13 CIP process. Some of the residents will be assessed as appropriate and as directed by Council. Council may choose to reduce assessments, and a percentage reduction of 10% has been suggested. Council may choose to allow residents being assessed to finance the cost through an extended repayment period using a reduced interest rate. Fiscal details will be presented with each Failed Development's plan.

SDBE Summary

The SDBE Summary is not applicable for this update.